

## Chapter 22

### **BUSINESSES<sup>1</sup>**

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<sup>1</sup> **Cross references:** Alcohol beverages, ch. 6; amusements and entertainments, ch. 10; emergency services, ch. 42; peddlers and solicitors, ch. 90; secondhand goods, ch. 98; taxation, ch. 114; telecommunications, ch. 118; utilities, ch. 126; commercial land uses, § 130-401 et seq.; industrial land uses, § 130-501 et seq.; home occupation, § 130-531; local business district (B-1), § 130-761 et seq.; central business district (B-2), § 130-791 et seq.; community business district (B-3), § 130-821 et seq.; regional business district (B-4), § 130-851 et seq.; light industrial district (I-1), § 130-1161 et seq.; heavy industrial district (I-2), § 130-1181 et seq.; special industrial district (I-3), § 130-1196 et seq.; planned office district (O-1), § 130-1211 et seq.

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## **ARTICLE I. IN GENERAL**

**Secs. 22-1--22-30. Reserved.**

## **ARTICLE II. LICENSES**

### **Sec. 22-31. Generally; fee schedule.**

A license shall be required for the sale of any items or the conduct of any business or activity as established by the council from time to time by resolution and as set forth in appendix A, and the license fees shall be as indicated in such schedule. The license fees shall be for one year, unless otherwise indicated.

(Code 1986, § 12.01)

### **Sec. 22-32. License required.**

No person shall engage in any business or activity for which a license is required under section 22-31 without a license or permit therefor as provided by this article. The words "license" and "permit" as used throughout this article shall be interchangeable.

(Code 1986, § 12.02(1))

### **Sec. 22-33. Application.**

Application for a license under this chapter shall be made to the city clerk-treasurer on a form furnished by the city. Such application shall contain such information as may be required by the city council.

(Code 1986, § 12.02(2), Ord. 2016-08)

### **Sec. 22-34. Payment of fee.**

License fees imposed under section 22-31 shall accompany the license application. If a license is granted, the city clerk-treasurer shall issue the applicant a receipt for his license fee.

(Code 1986, § 12.02(3))

### **Sec. 22-35. Refund of fee.**

No fee paid under this article shall be refunded unless the license is denied.

(Code 1986, § 12.02(4))

### **Sec. 22-36. Issuance.**

- (a) The city clerk-treasurer may issue the following licenses subject to the standards established by this article without prior approval of the city council:

- (1) Cigarette licenses.

- (2) Peddlers, etc., licenses upon approval by the chief of police.
- (3) Mobile home occupancy permits.
- (4) Dog licenses.
- (5) Public amusements and entertainments licenses.

(b) All other licenses shall be issued by the city council unless otherwise designated.

(Code 1986, § 12.02(5), Ord. 2012-07)

**Sec. 22-37. Term.**

All licenses issued under this chapter, except for dog licenses, shall expire on June 30 in the year of issuance, unless issued for a shorter term, when they shall expire on midnight of the last effective day of the license, unless otherwise provided by this Code or state laws.

(Code 1986, § 12.02(6), Ord. 2016-08)

**Sec. 22-38. Form and contents.**

All licenses issued under this chapter shall show the date of issue, the activity licensed, and the term of the license, and shall be signed by the city clerk-treasurer and be impressed with the city seal, if any.

(Code 1986, § 12.02(7), Ord. 2016-08)

**Sec. 22-39. Record.**

The city clerk-treasurer shall keep a record of all licenses issued under this chapter.

(Code 1986, § 12.02(8), Ord. 2016-08)

**Sec. 22-40. Display.**

All licenses issued under this chapter shall be displayed upon the premises or vehicle for which issued, or if carried on the person shall be displayed to any officer of the city upon request.

(Code 1986, § 12.02(9), Ord. 2016-08)

**Sec. 22-41. Compliance with city ordinances.**

It shall be a condition of holding a license under this chapter that the licensee comply with all ordinances of the city. Failure to do so shall be cause for revocation of the license.

(Code 1986, § 12.02(10), Ord. 2016-08)

**Sec. 22-42. Transfer.**

All licenses issued under this chapter shall be personal to the person to whom issued and shall not be transferred except with the consent of the council.

(Code 1986, § 12.02(11), Ord. 2016-08)

**Sec. 22-43. Exemptions.**

No license other than a liquor or beer license shall be required under this chapter for any nonprofit educational, charitable, civic, military, or religious organization where the activity

which would otherwise be licensed is conducted for the benefit of the members or for the benefit of the public generally.

(Code 1986, § 12.02(12), Ord. 2016-08)

**Sec. 22-44. Renewal.**

All applications for renewal of licenses under this chapter shall be made to the city clerk-treasurer by April 15.

(Code 1986, § 12.02(13), Ord. 2016-08)

**Sec. 22-45. Consent to inspection.**

An applicant for a license under this chapter thereby consents to the entry of police or authorized representatives of the city upon licensed premises at all reasonable hours for the purposes of inspection and search, and consents to removal from the premises and introduction into evidence in prosecutions for violations of this article all things found therein in violation of this chapter or state law.

(Code 1986, § 12.02(14), Ord. 2016-08)

**Sec. 22-46. Suspension or revocation.**

(a) Any license issued under this chapter may be revoked for cause by the city council.

(b) No license shall be revoked except upon written verified complaint filed with the city council by the mayor, a member of the city council, the chief of police, or a resident of the city. The licensee shall be served with a copy of the written charges and shall be given an opportunity to be heard before the city council. The hearing before the city council shall be not more than 20 and not less than five days after notice, except as otherwise agreed between the parties.

(c) At such hearing, the licensee may be represented by counsel, may present and cross examine witnesses and, upon request, may have subpoenas issued by the mayor or presiding officer of the city council to compel the attendance of witnesses.

(d) After hearing the evidence, the city council may revoke such license or impose a limited period of suspension. The determination of the council shall be final.

(e) The mayor or city council may suspend the license of a licensee under this article without hearing for not to exceed ten days.

(f) The police department shall repossess any license revoked under this section.

(Code 1986, § 12.02(15), Ord. 2016-08)

**Sec. 22-47. Applicants owing money to city.**

No license shall be issued by the city to any person who or any partnership or corporation which owes the city any money for any service rendered or any obligation incurred. The term "person," as used in this section, includes anyone other than a partnership or corporation.

(Code 1986, § 12.02(16))

### **Article III, Weights and Measures**

#### **Sec. 22-51. Regulations Adopted.**

The statutory provisions of Chapter 98, Wis. Stats., and Wisconsin Administrative Code, ATPC 92, Weighing and Measuring Devices, are hereby adopted and by reference made a part of this article as if fully set forth herein. Any act required to be performed or prohibited by any statute or code incorporated herein by reference is required or prohibited by this section. Any further amendments, revisions or modifications of the statutes incorporated herein or Wis. Adm. Code provisions incorporated herein are intended to be made a part of this section. This section is adopted pursuant to the provisions of Chapter 98, Wis. Stats.

[Ord. 2012-09]

#### **Sec 22-52. Appointment of Inspectors.**

In order to assure compliance with this article, the City hereby grants the authority and duties of sealers and inspectors required by this article to the State of Wisconsin Department of Agriculture, Trade and Consumer Protection.

[Ord. 2012-09]

#### **Sec. 22-53. Definitions.**

- (a) Commercial Weighing or Measuring Devices. Devices used or employed in establishing the size, quantity, extent, area or measurement of quantities, items, produce or articles for sale, hire or award, or in computing any basic charge or payment for services rendered on the basis of weight or measure.
- (b) Weights and Measures Program. The program that includes administration and enforcement of this section, Chapter 98, Wis. Stats., and applicable Wis. Adm. Code provisions, and any related actions.

[Ord. 2012-09]

#### **Sec. 22-54. Weights and Measures Participation Required.**

- (a) Except as provided in subsection b, each and every person, corporation, limited liability corporation, limited liability partnership, business group, organization or other entity who holds, owns, possesses, operates and/or maintains any

commercial weighing or measuring devices or any other weights and measures or systems and accessories related thereto which are used commercially within the City of Evansville for determining the weight, measure or count is deemed to be a participant in the City of Evansville Weights and Measures Program subject to the provisions of this article.

- (b) Exemptions. Sales permitted at any farmers' market or other similar event in the City which has been otherwise lawfully permitted, licensed or approved as required by the City Code or sales permitted by direct seller, transient merchants and solicitors are exempt from licensing under this section.

[Ord. 2012-09]

**Sec. 22-55. Fees Assessment.**

- (a) Annual Assessment. The City Clerk shall annually assess fees and mail invoices to each participant in the City of Evansville Weights and Measures Program by May 15<sup>th</sup> and due by June 30<sup>th</sup>. Assessment fees will be based on the number and types of weighing and measuring devices as indicated by the Department of Agriculture, Trade and Consumer Protection. The total of the fees assessed and the fees collected shall not exceed the actual costs of the City of Evansville Weights and Measures Program.
- (b) Failure to Pay Assessment. If the assessment fee is not paid by June 30<sup>th</sup> of each year, an additional administrative collection charge of ten percent (10%) of the fee shall be added to the amount due. A participant failing to pay the assessment shall not be issued any alcohol beverage license or cigarette license until such fee is paid in full. If the participant is the owner of the real estate premises where the weighing and measuring device is located, any delinquent assessment shall be extended upon the current or the next tax roll as a charge against the real estate premises as provided in Section 66.60(16), Wis. Stats.
- (c) Change of Ownership. If the ownership of the participant is transferred during the year, the owner of the participant as of June 30<sup>th</sup> of the current year shall be liable and responsible for the payment of the fees assessed under this article.

[Ord. 2012-09]

**Sec. 22-56-60. Reserved.**

(Ord. 2016-08)

**Article IV. Mobile Businesses**

**Sec. 22-61. Purpose of Article.**

The purpose of this article is to provide regulation of Mobile Businesses, defined in this chapter, to promote the health, safety, comfort, convenience, prosperity, and general welfare of the citizens by requiring that new and existing mobile food vendors provide

residents and customers with a level of cleanliness, quality and safety. It is also the intent of these regulations to establish reasonable guidelines and restrictions for mobile food carts to operate within city limits by averting imbalanced favor against brick and mortar businesses, while allowing for a diversity of businesses.

(Ord. 2016-08)

### **Sec. 22-62 License Required.**

No individual, partnership, corporation or other for-profit entity shall operate a mobile business without first having obtained a mobile business license as provided for in this article. Mobile Businesses operating in association with community events are exempt from this article.

(Ord. 2016-08)

### **Sec. 22-63. Definitions.**

The following words, terms and phrases, when used in this article shall have the meanings given to them within this section.

Goods means personal property of any kind including but not limited to food products which are prepared or prepackaged.

Mobile business means a for-profit business which has no permanent address in the city and which is selling goods from a motor vehicle, trailer, or food cart.

Nonprofit organization means a corporation, trust or community chest, fund or foundation or other entity organized and operated exclusively for religious, charitable, scientific, literary or educational purposes, no part of the net earnings of which inure to the benefit of any private shareholder or individual.

(Ord. 2016-08)

### **Sec. 22-64. License Application.**

An applicant wishing to obtain a license per this article shall apply to the city clerk for a peddler's license. Upon payment and approval, the city zoning administrator shall furnish application forms for a mobile business license, and sign permit that shall require the following:

- (1) Name of applicant, name of business and business owner, address, cell phone, and driver's license number of licensed operator;
- (2) Copy of Rock County Public Health Department inspection report as required for the sale of food products;
- (3) Proof of commercial liability insurance with limits of not less than \$500,000.00 and motor vehicle liability insurance with limits of not less than \$250,000.00 per person and per accident;
- (4) References;
- (5) Site and signage plan per sec. 22-65 of this Article.
- (6) Address and/or description of location for which license is being applied for.



- (7) Written consent of the owner of each property the mobile business will operate. If on school district property include the written consent of the school district.

(Ord. 2016-08)

#### **Sec. 22-65. Site and Signage Plan.**

(a) Each application for a mobile business license shall include a site plan for the subject property showing, at a minimum, the stationery location of the mobile business, the available customer parking, location of all motor vehicle entrances/exits, proposed lighting, and location of public roads.

(b) Each application for a mobile business license shall include a signage plan for the subject property showing, at a minimum, proposed signage as well as proposed signage illumination. The signage plan must be in accordance with Article X. Sign Regulation.

(c) The zoning administrator shall review applications for mobile business licenses for compliance with the requirements of this chapter. The zoning administrator shall have authority to require modifications to the proposed site plan in the interest of public safety. After review of such application, the zoning administrator shall forward the site plan to the clerk, with a written report stating whether the site plan is in compliance with the requirements of this article.

(Ord. 2016-08)

#### **Sec. 22-66. License Issuance.**

(a) Following receipt of the peddlers license and approval of the mobile business license application, the zoning administrator may grant the mobile business license

(b) The zoning administrator may refuse to approve the application if it is determined, pursuant to the requirements described in this article that the application contains any material omission, inaccuracies, or that the applicant was convicted of a crime, the nature of which is directly related to the applicant's fitness to engage in the operation of the mobile business.

(Ord. 2016-08)

#### **Sec. 22-67. License Restrictions.**

The following restrictions apply to the mobile business license:

- (1) Any violation of the City's municipal code, including Article X Sign Regulation is grounds for revocation of the mobile business permit.
- (2) Each license issued shall be valid for a calendar year from the date of approval by the zoning administrator.
- (3) The mobile business may be permitted on private property with a letter from the property owner verifying permission, or on school district property with a letter from the school district verifying permission.

- (4) Not less than two parking stalls per customer and employee shall be required for every eight feet of the mobile business.
- (5) Hours of operation are limited to the hours of 7:00 a.m. to 10:00 p.m. Sunday through Saturday.
- (6) No sales of alcoholic beverages are permitted.
- (7) The mobile business may not generate noise louder than levels produced by the equipment used in operating the mobile business.

(Ord. 2016-08)

**Sec. 22-68. Penalty.**

Any person, firm or corporation violating any provisions of this article may, upon conviction, have their license revoked and shall further be punished by a forfeiture of not less than \$50.00 or more than \$1,000.00. Each day's violation constitutes a separate offense.

(Ord. 2016-08)